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CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated below and addressed to: Mail Stop IDS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

n re Application

Signature

PATENT

Attorney Docket No. 39238-0034

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Inventor(s): Knowlton, Edward W.

Art Unit: 3739

Application No.: 10/783,974

Filed:

February 20, 2004

Examiner: Unassigned

Title: FLUID DELIVERY APPARATUS

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.97

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Assignee is also the owner of related U.S. Patent No. 6,749,624 and has filed a lawsuit against Syneron Medical Ltd. and Syneron, Inc. on that patent in the United States District Court, Northern District of California, San Francisco Division, Case No. C-04-2995-CRB. Syneron has raised various defenses, including validity and enforceability defenses, to that action. Furthermore, the court conducted a preliminary injunction hearing in that case and issued an order denying the same. Various items related to the case and the preliminary injunction proceedings are submitted herewith as well as other information.

Further, Applicant submits herewith a copy of the electronic docket report from the court. Applicant will consider any request from the Examiner for any other papers mentioned therein.

Listed below or on an attached Form PTO-1449 is information known to applicant(s). A copy of each listed publication, other documents, and U.S. and foreign patent, except for pending U.S. applications, is being submitted herewith, along with a concise explanation of information in a foreign language, if any, pursuant to 37 C.F.R. §1.97-1.98.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If form PTO-1449 is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.

\boxtimes	This sta	atement	qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):
		(1)	It is being filed within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d)
		(2)	It is being filed within 3 months of entry of a national stage
	\boxtimes	(3)	It is being filed before the mail date of the first Office Action on the ments
		(4)	OR It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114.
	of a na §1.49] before	ational	97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date application; (2) three months beyond the date of entry of the national stage as set forth in international application; or (3) the mailing date of a first Office action on the merits, but alling date of the earlier of a final office action under §1.113 or a notice of allowance under
			tification as specified in §1.97(e) is provided below; or
		payn	of \$180.00 as set forth in \$1.17(p) is authorized below, enclosed, or included with the nent of other papers filed together with this statement.
	37 C	<i>F.R</i> . <i>§1</i> n under	.97(d). If this statement is being filed after the mailing date of the earlier of a final office $§1.113$ or a notice of allowance under $§1.311$, but before payment of the issue fee, then:
٠	A.		rtification as specified in §1.97(e) is completed below; and
	B.	a pe here	tition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted with; and
	C.	pay	e of \$130.00 as set forth in $\$1.17(i)(1)$ is authorized below, enclosed, or included with the ment of other papers filed together with this statement.
\boxtimes	90 O2	Dand ch	zation. The Commissioner is hereby authorized to charge the above-referenced fees of arge any additional fees or credit any overpayment associated with this communication to count No. <u>08-1641 (Docket No. 39238-0034)</u> .
			Respectfully submitted,
			HELLER EHRMAN WHITE & MCAULIFFE LLP
			HELLER EDAVIAN WITH DE MANAGEMENT
Date	ed:	(((By: Jul Davis, Reg. No. 29,294

275 Middlefield Road Menlo Park, CA 94025-3506 (650) 324-7000 Customer No. 25213

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INTIALS	6,053,909	4/25/0	0	Shadduck	606	3	3/27/98			
	6,413,253	7/2/02		Koop, et al.	606	27	11/3/98			
	5,509,916	4/23/9	06	Taylor	606	. 13	8/12/94			
	5,401,272	3/28/9)5	Perkins	606	15	2/16/94			
	5,011,483	4/30/9)1	Sleister	606	37	6/26/89			
	6,413,253	7/2/02	2	Koop et al.	606	27	11/3/98			
	6,273,885	8/14/0	01	Koop et al.	606	9	8/16/98			
	6,451,007	9/17/0	02	Koop et al.	606	9	7/29/99			
	5,344,418	9/06/	94	Ghaffari	606	9	12/12/91			
	5,814,008	9/29/	98	Chen et al.	604	21	7/29/96	7/29/96		
	5,968,034	10/19		Fullmer et al.	606	9	6/24/98			
•	5,885,274	3/23/		Fullmer et al.	606	9	6/24/9.7			
		_L	FORI	EIGN PATENT DOCUMEN	TS					
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	DE 10082526 T	1 7/2	29/99	Germany			1 4			
	WO 01/08545	42 2/	8/01	PCT	A61B					
	WO 00/48644	A3 8/	24/00	PCT	A61E	18/00				
	OTHER D	OCUM	ENTS (Including Author, Title, Dat	e, Pertinent	Pages, Etc.)				
	Thermage, Inc.	, "Comp	olaint Fo	or Patent Infringement", July 2	3, 2004. ————					
	Thermage, Inc.	, "Motic	on for P	reliminary Injunction", August	6, 2004.					
	Thermage, Inc	., "Mem	orandur	n in Support of Motion for Pre	liminary Inju	nction", August	6, 2004.			
	Thermage, Inc	, "Decla its A-E,	ration o August	f Edward A. Ebbers in Suppor 6, 2004.	t of Motion f	or Preliminary In	junction"	and		
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HATTIALS	5,820,626	10/13/98	ı	Baumgardner	6	06	13	7/30/96	
	5,814,040	9/29/98	1	Nelson et al.	6	06	9	5/15/95	
	5,595,568	1/27/97		Anderson et al.	6	06	9	2/1/95	
	5,735,844	4/7/98		Anderson et al.	6	506	9	4/7/98	
	6,659,999	12/9/03		Anderson et al.	6	606	9	6/5/00	
	5,979,454	11/9/99		Anvari et al.		128	898	6/6/97	
	6,171,301	1/9/01	+	Nelson et al.	(506	9	11/3/97	
	5,628,744	5/13/97	_	Coleman et al.		506	12	12/21/9	3
	5,683,380	11/4/97		Eckhouse et al.		606	19	3/29/95	
	5,810,801	11/22/98		Anderson et al.		606	9	2/5/97	
	5,885,273	3/23/99	+	Eckhouse et al.		606	9	2/9/96	<u> </u>
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	Thermage, Inc.	"Declaration its A-M, Aug	of D ust 6,	r. Maureen Reitman in Suppo , 2004.	ort of N	Motion	for Preliminary		
	Thermage, Inc. Exhibits A-D,	"Declaration August 6, 200	of D)4.	Dave B. Koo in Support of Mo					ttached
	Opposition to I	Plaintiff's Mo	tion f	Inc., "Declaration of Robert S for a Preliminary Injunction" a	anu au	acricu	EXIIIOILS 1-25, 1		
		al, Ltd., Syne	eron,	Inc., "Memorandum in Oppos					
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	6,248,103	6/19/01	Tannenbaum et al.	606	9	5/28/99		
	5,906,609	5/25/99	Assa et al.	606	9	2/5/97		
	5,938,657	8/17/99	Assa et al.	606	9	2/5/97		
	5,964,749	10/12/99	Eckhouse et al.	606	9	9/15/95	· _	
	6,050,990	4/18/00	Tankovich et al.	606	9	12/4/97		
-	6,090,101	7/18/00	Quon et al.	606	9	12/10/9	7	
	6,104,959	8/15/00	Spertell	607	101	7/31/97		
<u> </u>	6,168,590	1/2/01	Neev	606	9	8/11/98	1	
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	OTHER D	OCUMENT	S (Including Author, Title, Date	, Pertinent P	ages, Etc.)			
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	G. Madia	al Itd Syne	eron, Inc., "Declaration of Dr. Miction for a Preliminary Injunction"	- hael Kreindel	in Support of S	yneron's		
	S Madia	al Itd Syn	eron, Inc., "Declaration of Domeniceliminary Injunction" and attached	ic Serafino in	Support of Syne	eron's Op		
	Syneron Medic	al, Ltd., Syn	eron, Inc., "Declaration of Moshe iminary Injunction", August 17, 20	Mizrahy in Su			sition to	
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	6,210,402	4/3/01	(Olsen et al.	6	06	32	11/25/9	7
	6,235,024	5/22/01	-	Ги	6	06	41	6/21/99	
	6,337,998	1/8/02	1	Behl et al.	6	07	101	7/14/99	
	4,140,130	2/20/79	.:	Storm, III	6	07	154	5/31/77	
	5,948,009	9/7/99	٦,	Tu	6	07	96	3/6/98	
	6,047,215	4/4/00		McClure et al.	(507	101	3/6/98	
	6,273,884	8/14/01		Altshuler et al.	(606	9	5/13/98	
	6,336,926	1/8/02		Goble	(506	34	1/18/00)
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				dum re Motion for Preliminary					
		"Declaration	of J	ohn M. Benassi in Support of M					nd
		, "Declaration	of P	aul Davis in Support of Motion	for	Prelim	inary Injunction	and att	ached
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		U.	S. PATENT DOCUMENTS				
EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING	DATE
	6,500,141	12/31/02	Irion et al.	604	32	7/7/00	
	6,387,089	5/14/02	Kreindel et al.	606	9	5/10/99	
	5,964,749	10/12/99	Eckhouse et al.	606	9	9/15/95	
	5,405,368	10/20/92	Eckhouse et al.	607	88	10/20/9	2
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***	September 3, 2	004.	n of Robert Gerberich in Support of				
	September 3, 2	004.	n of Edward W. Knowlton in Suppo				
	Thermage, Inc. September 3, 2	, "Declaratio	n of Richard J. Meader in Support of	of Motion fo	r Preliminary In	junction"	,
		, "Declaratio	n of Maureen Reitman in Support or 3, 2004.	of Motion fo	r Preliminary In	junction	
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	Preliminary Inju	nction Mot	ion",	September 10, 2004.					
	Motion", Septen	nber 10, 200	04.	Inc., "Surreply in Opposition t					
	Injunction Motion	on" and atta	iched	Inc., "Supplemental Declaration Exhibits A-C, September 10, 2	2004.				
	Syneron Medica Preliminary Inju	I, Ltd., Syn	eron,	Inc., "Supplemental Declaration and attached Exhibits A-B, Sep	on of Warre otember 10,	en Grundfest in C 2004.	Opposition	n to	
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	Judge Charles	R. Breyer, "	Order	granting Motion for Leave to	File Sui	rrepi	y", September 1	3, 2004.		
	Thermage, Inc September 14,	., "Memorat 2004.	ndum	in Opposition re Motion for Pr	relimina	ry Ir	ijunction to Syn	eron's Su	rreply",	
			Order	Regarding Questions for Ora	l Argum	nent"	, September 16,	2004.		
	Thermage, Inc	., "Answer	to Cou	interClaim", September 16, 20	004.					
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				denying Motion for Preliminar				, 2004.	
				ript of Proceedings held on 09.				· C4	
	Anvari et al., "I Theoretical and	Oynamic Epic Preliminary	derm: Clini	al Cooling in Conjunction with ical Evaluations," Lasers in Me	n Laser 7 edical St	udie	tment of Port-Wes, 10: 105-112,	1995.	15.
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